

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MAGTEN ASSET MANAGEMENT  
CORPORATION and LAW DEBENTURE  
TRUST COMPANY OF NEW YORK,

Plaintiffs,

v.

C.A. No. 04-1494-JJF

NORTHWESTERN CORPORATION,

Defendant.

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MAGTEN ASSET MANAGEMENT  
CORPORATION,

Plaintiff,

v.

C.A. No. 04-1256-JJF

PAUL HASTINGS JANOFSKY &  
WALKER, LLP,

Defendant.

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MAGTEN ASSET MANAGEMENT  
CORPORATION,

Plaintiff,

v.

C.A. No. 05-0499-JJF

MIKE J. HANSON and ERNIE J. KINDT,

Defendants.

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**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Consolidated Discovery.** Discovery in all of the above-captioned cases shall proceed immediately, on a consolidated basis.

2. **Pre-Discovery Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2 shall be exchanged by January 20, 2006.

3. **Joinder of Other Parties.** All motions to join other parties shall be filed on or before February 28, 2006.

4. **Discovery.**

(a) On or before March 20, 2006, the parties shall: (i) complete the production of documents; (ii) complete responses to contention interrogatories; and (iii) identify the fact witnesses each party anticipates presenting at trial.

(b) There shall be a maximum of twenty-five (25) interrogatories, including contention interrogatories, for each side.

(c) There shall be a maximum of twenty-five (25) requests for admission by each side.

(d) Fact discovery will close on May 8, 2006.

(e) Opening expert reports required by Fed. R. Civ. P. 26(a)(2) from the party bearing the burden of proof on an issue shall be served by June 5, 2006.

(f) Rebuttal expert reports shall be served by June 26, 2006.

(g) Any party desiring to depose an expert witness shall notice and complete said deposition no later than July 14, 2006, unless otherwise agreed in writing by the parties or ordered by the Court.

5. **Discovery Disputes.** Unless otherwise ordered by the Court or by a Special

Master appointed by the Court:

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf\_civil@ded.uscourts.gov that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before April 3, 2006.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before August 28, 2006. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules

of Civil Practice of the United States District Court for the District of Delaware. Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf\_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

**9. Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

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DATE

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HON. JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE